

Remarks

Claims 1-20 and 29 are pending.

Claims 1, 3-5, 7, 9, 10, 12, 15, 16 and 19 have been found to conflict with claims 1, 2, 4-8, 10, 15 and 16 of Application No. 10/689,168.

Claims 1, 3-5, 7, 9, 10, 12, 15, 16 and 19 are provisionally rejected on the ground of non-statutory double patenting over claim 1, 2, 4-8, 10, 15 and 16 of co-pending application No. 10/689,168.

Claim 29 is allowed.

Claims 2, 6, 8, 11, 13, 14, 17, 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants file this Request for Continued Examination to submit an Information Disclosure Statement according to 37 C.F.R. §1.97(b)(4). The Information Disclosure Statement includes a new reference that has been cited in the prosecution of Patent Application Ser. No. 10/689,168: Integrated Web Cache, filed on October 20, 2003 and currently pending, which claims the benefit of the same provisional as the present application, namely Patent Application No. 60/420,054, filed on 10/21/2002. Applicants do not amend any claims by this response.

Also, Applicants would like to remind the Examiner that a continuation-in-part application has been filed on April 16, 2007 based on the present application, namely Patent Application Ser. No. 11/735,664: Mobility Access Gateway. This application is currently ready for examination by the Patent Office. However, no Office Action has been prepared yet.

Double Patenting

Claims 1, 3-5, 7, 9, 10, 12, 15, 16, and 19 have been found to conflict with claims 1, 2, 4-8, 10, 15, and 16 of co-pending Application No. 10/689,168. Further, claims 1, 3-5, 7, 9, 10, 12, 15, 16, and 19 are provisionally rejected on the ground of non-statutory double patenting over claims 1, 2, 4-8, 10, 15, and 16 of co-pending Application No. 10/689,168.

Statutory double patenting rejection is inappropriate if claims in one application could be literally infringed without literally infringing corresponding claims in another application. *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970). Based on the comparison table provided by

the Examiner, it appears that the Examiner believes that claim 1, or claim 15, of the present application and a combination of claims 1, 2, and 7 of the copending application claim the same inventions or at least are not patentably distinct. Applicants respectfully disagree.

With respect to the present application, claim 1 recites at least the following elements that are not present in either of the claims of the co-pending application: “home authentication, authorization and accounting system;” “user profile data;” “session state data;” and “a foreign agent that receives user profile data and session data.” Claim 15 recites at least the following elements that are not present in either of the claims of the co-pending application: “home authentication, authorization and accounting system;” “user profile data;” “access point;” “wireless modem;” and “a foreign agent that receives user profile data.”

With respect to the copending application, claims 1, 2, and 7 combined recite at least the following elements that are not present in claim 1 or claim 15 of the present application: “a cache for storing network data recently downloaded from a network;” “state of mobile node;” “second gateway;” “second foreign agent;” etc. Accordingly, claims of the present application could be literally infringed without literally infringing corresponding claims of the copending application, and, *vice versa*, claims of the copending application may be literally infringed without literally infringing corresponding claims of the present application. Therefore, statutory double patenting rejection is improper and should be withdrawn.

Moreover, claims of the present and copending applications are directed toward different subject matters. Claim 1 of the present application is directed to a gateway for mobile access where the gateway provides for transferring a session of a mobile node without interruption from a first network to a second network when the mobile node moves from the first network to the second network. Claim 15 of the present invention is directed to a gateway for mobile access that has a wireless modem and is by itself mobile, meaning that such a gateway is capable of being physically moved in space while still performing its functionality – providing access to mobile clients. In contrast, claims of the copending application, and claims 1, 2, and 7 in particular, are directed to a gateway for mobile communications where the gateway includes integrated cache for eliminating roundtrip transmission to and from home agent within the same network. Accordingly, claims of the present application recite substantially different limitations than the claims of the copending application. Consequently, the subject matter covered by the claims of the present application is substantially different than the subject matter covered by the

claims of Application No. 10/689,168, making the two sets of claims patently distinct and non-obvious in view of one another.

Furthermore, with respect to the non-statutory rejection, the Examiner suggests that a timely terminal disclaimer may be used to overcome these rejections. Both applications Application No. 10/689,168 (Art Unit 2616, last response to non-final Office Action was filed July 12, 2008) and the present Application (Art Unit 2134) are currently pending. Accordingly, filing a terminal disclaimer for either of the applications is premature. Applicants provisionally agree to file a terminal disclaimer to resolve the present double patenting rejection, unless at the time already resolved by other means, if and when one of the applications is allowed. In accordance with MPEP §804(I)(B), "if the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the 'provisional' double patenting rejection in the other application(s) into a double patenting rejection at the time one application issues as a patent." As such, Applicants will file a terminal disclaimer in the future, if and when necessary.

Allowable Subject Matter

Applicants thank the Examiner for the allowance of claim 29.

Claims 2, 6, 8, 11, 13, 14, 17, 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for the indication of allowable subject matter; however, in view of the above discussion it is respectfully submitted that these claims depend from allowable base claims and, therefore, are patentable as currently presented. The Examiner is respectfully requested to withdraw the objection.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 7/28/08



Eamon J. Wall
Registration No. 39,414
Attorney for Applicants

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808